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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,865	12/18/2001	Robert K. Menzel	BOEI-1-1017	3682
7:	590 07/25/2003			
Michael S. Sn	<del></del> -		EXAMINER	
BLACK LOWE & GRAHAM PLLC 816 Second Avenue			GREGORY, BERNARR E	
Seattle, WA 9	8104		ART UNIT	PAPER NUMBER
			3662	
			DATE MAILED: 07/25/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

## Disposition of Claims  ## Disposition of							
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Bernart E. Gregory The MAILING DATE of this communication appears on the cover sheet with the correspondence address  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  If the period for reply specified shows is less than this; (30) days, any end with the statutory minimum of thin; (30) days will be considered from;  If the period for reply specified shows is less than this; (30) days, any will be shown on the communication.  If the period for reply specified shows is less than this; (30) days, any will be shown on the communication.  If the period for reply specified shows is less than the right shown of the communication of thin; (30) days will be considered from;  If the period for reply specified shows is less than the right shown of the shown of the communication.  If the period for reply specified shows is less than the right shown of the shown of the replace of this communication.  A prophy received by the Office later than there months after the nailing date of this communication, even if thirely filed, may reduce any sentence and the shown of		10/024,865	MENZEL ET AL.				
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THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provision of 3°C FR in 15(6). In no event, however, may a reply be timely filed after OX (6) MONTHS from the mailing date of this communication.  I MO gender or reply selected in the provision of the communication and the communication of the communication o	The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
2a)  This action is FINAL. 2b)  This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s) 1-6 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) is/are allowed.  6)  Claim(s) is/are allowed.  6)  Claim(s) is/are objected to.  8)  Claim(s) are subject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner.  10)  The drawing(s) filed on is/are: al accepted or b  objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11)  The proposed drawing correction filed on is: a) approved b)  disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12)  The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All b)  Some * c)  None of:  1.  Certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.  14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1  Notice of References Cited (PTO-82)  9  Notice of References Cited (PTO-948)	THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period w Failure to reply within the set or extended period for reply will, by statute, - Any reply received by the Office later than three months after the mailing	within the statutory minimum of thirty (30) day ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).				
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- 1. In response to Applicants' remarks in the Response received 16 May 2003, the following reply is made. It is noted that Applicant has acknowledged that the '898 patent is definitely prior art under 35 USC 102(e), but that it may not be used because the '898 patent and the instant application were commonly owned at the time the claimed invention was made. This acknowledgement is made in the second full paragraph of page two of the Response. In reply, it is pointed out that 35 USC 103(c) states "... shall not preclude patentability under this section ...", where "this section" means 35 USC 103. Since the '898 patent is applied under 35 USC 102(e), the argument is not persuasive. The rejection of record over the '898 reference is therefore maintained as set forth in the prior office action.
- 2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr E. Gregory whose telephone number is (703)

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306-5765. The examiner can normally be reached on weekdays from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza, can be reached on (703) 306-4171. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Bernarr E. Gregory Primary Examiner Art Unit 3662 Page 3